

Department  
of the  
Treasury

Internal  
Revenue  
Service

Office of  
Chief Counsel

**N o t i c e**

N(30)310-3

August 19, 1998

Legal Advice Provided

**Subject:** by Office of Chief Counsel **Cancellation Date:** February 15, 1999

Charles O. Rossotti, Commissioner of Internal Revenue, and Stuart L. Brown, Chief Counsel for the Internal Revenue Service, jointly signed a memorandum on August 7, 1998, to all employees regarding important principles guiding legal advice provided by Office of Chief Counsel.

The text of the memorandum follows:

The IRS Restructuring and Reform Act of 1998 makes many significant changes in IRS management and oversight and also includes many provisions designed to protect taxpayer rights. One section of the Act enhances the reporting relationship between the Chief Counsel and the Commissioner. We will be analyzing the implications of this provision in detail in connection with Phase II of the Service's Modernization planning process. We are writing this memorandum at this time, however, to reaffirm the fundamental principles that must continue to guide Counsel's legal advice no matter what organizational changes result from this provision of the Act.

In order to protect taxpayer rights and ensure compliance is fair, the Internal Revenue Service has an obligation to apply the tax law correctly, fairly, and reasonably. To this end, the IRS relies on the Office of Chief Counsel for independent professional judgment as to the correct interpretation of the law. Counsel's legal advice must be based on the true meaning of the statute, in light of congressional intent, without a bias in favor of either the government or the taxpayer. Counsel must take this same approach to legal advice in all different aspects of tax administration (from audits, litigation, and collection matters to the issuance of letter rulings or the development of regulations).

The same principles guide legal advice throughout the Treasury Department, and we expect they will be followed by the Office of Chief Counsel in the future just as in the past. The new reporting relationship between the Chief Counsel and the Commissioner does not in any way lessen Counsel's obligation to provide legal advice based on its independent professional judgment as to the correct interpretation of the law. Independent and impartial legal advice plays

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an essential role in helping guide IRS administrative actions according to the correct interpretation of the law. That is how we serve taxpayers individually and apply the tax laws fairly for all.

This memorandum will be incorporated into the Chief Counsel Directives Manual.

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(Finance and Management)